Zeitschrift des Max-Planck-Instituts für Rechtsgeschichte und Rechtstheorie
Journal of the Max Planck Institute for Legal History and Legal Theory

Rechts Rg geschichte

Rechtsgeschichte
Legal History

www.lhlt.mpg.de

http://www.rg-rechtsgeschichte.de/rg33
Zitiervorschlag: Rechtsgeschichte – Legal History Rg 33 (2025)
http://dx.doi.org/10.12946/rg33/226-227

Rg 33 2025 226 – 227

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A Who Is Who of Early Modern Legal Intellectuals in China

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Xinyi Hou

A Who Is Who of Early Modern Legal Intellectuals in China*

In China, the science of law emerged in the late Qing Dynasty and the early Republic of China. Its existence appeared the result of further division of academic discipline, but it was actually a practical need for the country's political transformation. Therefore, the emergence of the science of law has significance in modern China. Its distinct knowledge content, knowledge system, and values offer multiple options and possibilities for China's transition from tradition to modernity, as well as the development of modern China itself. Recently, Professor Sun Xiaoxia from the Law School of Zhejiang University authored a book, *Legal Intellectuals. Portrait of 60 Representative Figures in Early Modern China*, retelling the lives, ambition, and contributions of 60 legal intellectuals.

This book is structured biographically in the traditional Chinese way, first putting 60 legal intellectuals in early modern China into four categories (i. e. new knowledge pioneers, political actors, professional actors, and academic observers) and then unfolding their stories chronologically, so that the whole book is an organic whole.

This book organizes the relationship among the legal intellectuals in a sophisticated way. According to their close relationship with politics, there are roughly three types of legal intellectuals in early China: those with strong political attributes (e. g. Liang Qichao, Li Dazhao, Shen Junru, Shi Liang), some who were legal leaders (e. g. Shen Jiaben, Wu Tingfang, Dong Kang, Jiang Yong, Wang Chonghui), and some who were scholars (e. g. Zhang Junmai, Zhou Gengsheng, Mei Zhongxie, Chen Guyuan, John Wu). The first group is well-known and documented in several biographies. The latter two types were professional leaders but lack public visibility. The challenge in portraying the first group is how to minimize the repetition of existing narratives and present the relationship between politics and laws well, while the challenge for the second and third groups is to avoid stereotypes and showcase how unique the person is. As the author cleverly balances among the three groups, readers enjoy connecting the dots. As the title suggests, this book »retells«. To this end, the author employs a variety of writing techniques: for biographized celebrities, he chooses a unique perspective; for legal leaders, he comments on their work objectively; and for those with few historical records, he investigates their lives thoroughly. In this way, 60 figures are vividly portrayed, each featuring a one-of-a-kind personality, thoughts, and experiences.

This book makes three contributions:

First, the practice of the rule of law in early China is interpreted from the viewpoint of »legal intellectuals«. Legal intellectual is a term proposed by Professor Sun in this book. Compared with terms such as legal politician, judicial official, judge, lawyer, prosecutor, jurist, and political-legal department official, »legal intellectual« is undoubtedly better and in line with the reality of China's rule of law. It sounds more professional than legal politician, more academic than political-legal department official, and more comprehensive than judge, prosecutor, or legal professional. Such a term makes it easier to observe and discover the intrinsic rules and problems of the early Chinese practice of the rule of law holistically, such as the lack of a legal professional community. In addition, this term always reminds us to observe the similarities and differences between legal intellectuals and other intellectuals, pay attention to the commonality of the intellectuals, and yet highlight professional thinking, the unique value and spirit of legal intellectuals. Using »legal intellectuals« as an analytical tool helps reveal how the major systems of law and politics, law and learning, and law and society were constructed in modern China, how this construction method affected the

* Sun Xiaoxia, Legal Intellectuals. Portrait of 60 Representative Figures in Early Modern China, Beijing: Commerce Press 2023, iv + 1495 p., ISBN 978-7-100-21738-5

historical trend of modern China, and may even reconstruct China's modern legal history without using regular periodization.

Second, the types and scope of the aspirations and contributions of legal intellectuals are clarified. The 60 figures experienced drastic political, social, and knowledge transformations in early modern China, were faced with severe national conflicts, and witnessed the never-ending revolutionary passion. The author examines how they responded to the good times and the bad times, arranged their personal lives and career paths, seized the opportunity, managed their relationship with the country, the nation, the era, and the occupation in those turbulent and ever-changing days, and how they dealt with their desires and their souls' cravings. In this way, their contributions are summarized in various fields: culture (removing the old and introducing the new), mindset (enlightening), knowledge (innovating and sharing), politics (participating in constitutionalism and revolution), profession (improving the political system and identifying the weaknesses), diplomacy (safeguarding sovereignty), society (running schools and upholding fairness and justice), academics (promoting new learning), etc. The book comprehensively and objectively reproduces the contributions of legal intellectuals in the era of transition and demonstrates the differences between legal intellectuals and other intellectuals. In modern China, rule of law might be a decision made by politicians, but it was the emergence and efforts of legal intellectuals that did the concrete work to make rule of law work. It is precisely because of the legal intellectuals that the rule of law moved forward with modern China hand in hand.

Third, the pattern and internal clues for legal intellectuals to succeed are illustrated. For Chinese legal intellectuals, how to deal with the complex relationship between professional knowledge and politics is the most central issue. As Professor Sun writes in this book, »early modern legal intellectuals have a natural connection with politics, and politics has become a common choice for them to realize their dreams. […] Some of them were completely engaged in politics, some tried to have politics and academics both, and some criticize politics from academics« (19). These statements could not be more insightful. This book effectively reveals why legal intellectuals in early modern China succeeded – that is, whether they were able to handle the relationship with politics well.

Clues play different roles in different stages. The science of law and legal intellectuals appeared as the Qing court rolled out the new policy reform in the 1910s. Since then, legal intellectuals, whether they were new knowledge trailblazers, political actors, professional actors, or academic observers, have served the country and enriched their own lives, regardless of pursuing a political, professional, or academic path. It is necessary to point out that while it is important to pinpoint the reasons for the success of legal intellectuals in early modern China, it takes one's academic acumen to find out the clues, that is, the sequence of roles in achieving success.

This book is more than just a history book because the author dives deep into the career ecosystem, feelings, personalities, and visions of legal intellectuals, building emotional ties with today's legal intellectuals and triggering readers to think about their own destinies. The book has a few shortcomings, though. For example, four categories of legal intellectuals may not be sufficient, and one or two more could be added; nor are the historical materials on some persons complete.

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